IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1424 of 2007
Date of Decision: 19.3.2007

Mandir/Thakur Dwara Charitable Trust ...Petitioner

Versus

Prem Singh ....Respondent

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri T.P.S. Tung, Advocate, for the petitioner.

Shri Gagandeep Singh, Advocate, for the respondent.

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order passed by the learned first Appellate Court on 18.1.2007, whereby an application filed by the plaintiff-respondent under Order 39 Rules 1 and 2 CPC was allowed and the defendant was restrained from interfering and dispossessing the plaintiff from the suit land, illegally, forcibly and except in due course of law.

Admittedly, Dr. Pohloram gifted the property in dispute to Mahant Lachhman Dass Bairagi somewhere in the year 1914-15. After the death of Mahant Lachhman Dass, his Chela Ram Mohan Dass has entered into the land as sarprast. The dispute arose thereafter. As per the plaintiff, he is the Chela of Mahant Ram Mohan Dass appointed on 19.9.1999 by the gathering of Sadh Bairagi including in the presence of Parmanand, who represents the defendant, the present petitioner.

On the other hand, it is the case of the defendant that one Sukhdev Ram was in possession of the suit land and that he has executed an affidavit dated 14.7.2003 to the effect that he is a Pujari of Mandir and that he has no objection if the revenue record is corrected so as to incorporate the name of the defendant-Trust.

The learned trial Court has found that the name of Prem Singh plaintiff is reflected as a person in possession since the year 1981 as Gair Marusi tenant. It was found by the learned trial Court that since the plaintiff himself is not claiming his right as Gair Marusi tenant, therefore, he cannot assert his possession as adverse to the deity. The learned first Appellate Court found that the Trust deed placed on the file does not show how and in what manner, the defendant-trust acquired the ownership. The said trust was registered in the year 2002, whereas Dr. Pohloram has given the property to Mahant Lachhman Dass somehwere in the year 1914-15.

In the absence of any evidence of the vesting of the property in the trust by Mahant Ram Mohan Dass during his lifetime, it cannot be said that the Trust is in possession of the suit property. The plaintiff claims himself to be in possession of the suit property as Chela of Mahant Ram Mohan Dass appointed by Sadh Vairagi. Therefore, the plaintiff has been rightly found to be in possession. The possession is supported by the entries in the revenue record as well.

Consequently, I do not find any patent illegality or irregularity in the impugned order passed by the learned first Appellate Court, which may warrant interference by this Court in exercise of its revisional jurisdiction in the present petition.

Hence, the present petition is dismissed.

However, any observation made in present order will not be be construed as an expression of opinion on the merit of the controversy,

19-03-2007 (HEMANT GUPTA)
ds JUDGE